

THE WATCHDOG

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A Periodic Newsletter from the Office of the United States Trustee
Region 16 - Central District of California
January 2008 - Issue No. 19
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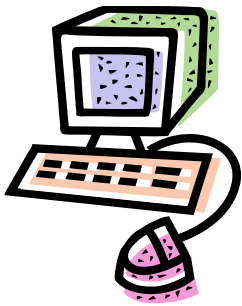
INSIDE:

News from the Court
Case Filing Information
Have You Paid Your Quarterly Fees?
Civil and Criminal News
New OUST Staff
and a Message from the United States Trustee

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Important Links:



www.usdoj.gov/ust/r16 provides a wealth of information on Region 16. There's a page devoted to each of the field offices; Los Angeles, Riverside, Santa Ana, Woodland Hills and its Santa Barbara satellite office. You can find maps to the office and meeting rooms, parking information, and a staff directory with phone numbers. Find out about a variety of topics like "Brown Bag" Training series, local forms and references, how to submit criminal complaints fraud and report identity theft, public notices and local policies. A quick click on the "What's New" link will show you what documents have been added or updated.

You can use the "Email Us" link to create an email addressed to us. Email us with questions or comments about the web page, or with questions about bankruptcy topics. Please do not submit a complaint or fraud complaint this way - follow the instructions on the "Complaints" page. Always keep in mind that we cannot provide legal advice.

www.cacb.uscourts.gov/ will link you directly with the U.S. Bankruptcy Court - Central District of California .

Visit the U.S. Trustee Program's website, www.usdoj.gov/ust/. It's loaded with information on the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005

For information on:

- Means Testing forms and IRS Standards
- Credit Counseling & Debtor Education
- State Domestic Support Enforcement Agencies
- Data Enabled Form Standard

You can also find:

- Annual Reports
- Bankruptcy Statistics
- Press Releases
- Testimony & Statements

Questions for Region 16 can be directed to:

www.ustp.region16@usdoj.gov



Please contact us with suggestions and topics. To make sure you are included in our "subscriber" data base, please e-mail your address to the address above and put "WATCHDOG" in your subject line.



A MESSAGE FROM UNITED STATES TRUSTEE PETER C. ANDERSON



In 2007, my office and the entire bankruptcy community worked together to improve our bankruptcy system. To that end, Chapter 7 Aged Case portfolios have been reduced from about 10.5% of open asset cases to about 5%. At the same time, about \$250,000,000

of distributions to creditors from Chapter 7 estates have been made. This is an increase of about \$100,000,000 over what would be considered normal. Eighteen percent went to unsecured creditors and only about 6 to 7 % went to trustees or their firms. Distributions for a year have generally been about \$150,000,000.

In all the years that I have been part of the bankruptcy community, I have never seen a more effective or efficient effort in connection with the protection of our bankruptcy system. The Los Angeles Bankruptcy Fraud Working Group has continued its work, and recently a meeting was held in Orange County to start a similar group. I expect that a new Bankruptcy Fraud Working Group will meet in Riverside by the time the next Watchdog is issued.

As case filings normalize, we will continue our efforts to streamline to make document requests more precise. We will depend even more on our Chapter 7 Panel Members to verify the accuracy of income figures, and assist us in connection with the Meeting of Creditors.

I am sure that you have all seen the recent articles in newspapers concerning the Program's efforts in the area of consumer protection. Our work continues to make the bankruptcy reform law work as intended by Congress for the benefit and protection of debtors, creditors, and the public. If you know of problems in this regard, then you need to communicate them to us.

I was recently humbled and honored to receive the Calvin Ashland Award from the Central District of California Consumer Bankruptcy Attorneys Association. The Award states that it is "An annual award to those who in the course of their profession, exemplify compassion, understanding and concern for community and individuals." I look forward to working with all of you to uphold these values.

Peter C. Anderson
United States Trustee

CENTRAL DISTRICT CASE FILING INFORMATION

<u>Chapter 7</u>		<u>Chapter 11</u>		<u>Chapter 13</u>	
October	1456	October	17	October	387
November	1422	November	27	November	347
December	1508	December	11	December	396
January	1605	January	16	January	499
February	1664	February	12	February	483
March	2076	March	36	March	598
April	1826	April	22	April	551
May	2045	May	31	May	654
June	2065	June	24	June	624
July	2111	July	30	July	693
August	2419	August	41	August	701
September	2046	September	17	September	667



REPORT FROM THE U.S.B.C.

by L. Charmayne Milles Assistant U.S. Trustee

Reappointments for Judges

Donovan and Smith - Bankruptcy Judges Thomas B. Donovan and Erithe A. Smith have been reappointed to second 14 - year terms on the U.S. Bankruptcy Court in the Central District of California. Both judges joined the Court family in 1994 in Los Angeles. In 2006, Judge Smith moved her chambers to the Santa Ana Division. Judge Donovan is very active in professional and community activities and Judge Smith has just completed service on the Ninth Circuit Bankruptcy Appellate Panel (BAP).

Chapter 13 – All chapter 13 standing trustees and their staff have received training on the new CM/ECF system and are preparing to start filing documents electronically. This completes the training of all trustees in this District.

PACER Search for Previous Case Filing

Information – The key thing to remember is that Los Angeles Division cases are broken down into two parts: **Live and Archive**. The determining factor for cases that are in the Archive file is the date the case was closed (before 1/24/01).

PACER Availability: Bankruptcy Case and Adversary Proceeding Dockets (older dockets may only have a summary and/or limited docket entries)		
DIVISION	DATE OF EARLIEST BANKRUPTCY CASE	DATE OF EARLIEST ADVERSARY PROCEEDING
Los Angeles	01-10001 and 1983-2000 cases closed after 1/24/01 For 1976-2000 cases closed before 1/24/01, check the "Los Angeles Archive" in PACER	80-00789
Riverside	80-01980	93-01423
Santa Ana	81-00984	79-00001
Northern	80-91483	86-01166
San Fernando Valley	80-03500	81-00076

TRUSTEE PROFILE

Elissa Miller

Throughout her life, Elisa Miller has balanced her commitment to family and work with her commitment to the community in which she lives. Ms. Miller states that she has always felt it important to recognize that ‘community’ encompasses more than just family and those with whom we work and play. As such, she actively participates in community projects and services as well as volunteers in local and national politics. Ms. Miller states “*being a trustee allows me the opportunity to fulfill both of these goals in one position.*” Ms. Miller’s decision to become a trustee was the convergence of two aspects of her life—law and social commitment.

After graduating from UCLA with a Bachelor’s degree in Anthropology in 1977, Ms. Miller did not believe she would ever return to school. However, after working full-time for five years in various jobs, she realized that her life needed more fulfillment. Thus, as a result of working previously with lawyers and after talking with friends, she concluded that law school would be just the place for her – so she applied for and was admitted to Southwestern University School of Law. In 1985, Ms. Miller graduated from law school, passed the State Bar exam and became a lawyer. Her first position was with the California Courts of Appeal where she was a Law Clerk to the Honorable Robert Devich (now retired). From that position, she moved into the private sector, working for law firms. Although Ms. Miller started as a state court business litigator, over the years, her practice morphed into a combination of litigation and bankruptcy law. Currently, Ms.

Miller is a partner at **SulmeyerKuptez**, which she joined in 1996, and where she continues to practice business litigation and bankruptcy.

In addition to practicing law, Ms. Miller has been involved in varied social causes. She has worked on political campaigns, walked precincts, fielded calls and has contributed financially to candidates seeking public office. Ms. Miller also has donated time and resources to local charitable organizations including those organizations which work to



protect the environment, and others which work to insure quality, affordable healthcare to those without insurance or means. She also supports those charities which offer affordable housing to persons with HIV and Aids.

The convergence of the path of law and social responsibility has made her transition to the job of being a trustee, natural and seamless. Ms. Miller will attest that being a trustee requires multitasking but also

it is rewarding because it affords her an opportunity to help people from different economic backgrounds, races and cultures who face financial hardship. She states “*The 341a meeting room is truly a melting pot reflective of the diversity of Los Angeles.*”

Ms. Miller is a member of the Board of the Los Angeles Bankruptcy Forum and a member of the Insolvency Law Committee of the Business Law Section of the State Bar of California. When not working, she enjoys spending time with her husband and 12 year-old daughter.

THOMAS P. O'BRIEN SWORN IN AS UNITED STATES ATTORNEY

The following is a press release issued by the United States Attorney's Office for the Central District on October 5, 2007

In a private ceremony this afternoon, Thomas P. O'Brien was sworn in as the United States Attorney for the Central District of California. O'Brien was sworn in by United States District Judge John F. Walter in his courtroom in the United States Courthouse in Los Angeles.

O'Brien, who for the past 27 months has run the office's Criminal Division, now leads the largest United States Attorney's Office outside of the District of Columbia. The office, which currently employs approximately 230 attorneys, serves more than 18 million residents in the counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura, Santa Barbara and San Luis Obispo.

"I am extremely pleased to be leading one of the nation's premier public law firms," O'Brien said after today's swearing-in ceremony. "I look forward to maintaining this office's long tradition of prosecuting some of the most significant cases in the nation." After being unanimously confirmed yesterday by the United States Senate, O'Brien was given a four-year appointment by President George W. Bush this afternoon. O'Brien succeeds George S. Cardona, who served as the interim United States Attorney and Acting United States Attorney for nearly one year after United States Attorney Debra Wong Yang resigned to go into private practice.

Prior to joining the United States Attorney's Office seven years ago, O'Brien was a prosecutor in the Hardcore Gang Division of the Los Angeles County District

Attorney's Office. A 1981 graduate of the United States Naval Academy, O'Brien logged 2,000 flight hours as a radar intercept officer in F-14 "Tomcat" fighters.

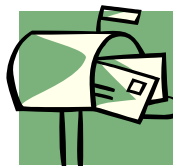
Have You Paid Your Quarterly Fees?

By Wendy Carole Sadovnick,
Bankruptcy Analyst

Effective October 1, 2007, the United States Trustee Program began assessing interest on unpaid Chapter 11 quarterly fees, pursuant to the Debt Collection Improvement Act (31 U.S.C. §3717). The interest rate assessed is the rate in effect as determined by the Treasury Department. Currently that rate is 4%.

Effective December 1, 2007, the Bank of America lockbox operation (USTP's former lockbox provider) will no longer forward mail to the Wachovia lockbox in Charlotte, NC. All mail sent to the former lockbox address in Atlanta will be **returned to the sender**. Failure to use the correct lockbox address could add several days to the payment receipt date, increasing the possibility of an interest assessment. While the Wachovia lockbox has been in operation for almost nine months, quarterly fees are still being mailed to local UST Offices or the Bank of America Atlanta lockbox by both debtors and debtor's attorneys.

Please ensure that payments of quarterly fees are now sent to:



U.S. Trustee Payment Center
P.O. Box 70937
Charlotte, NC 28272-0937

Brotman Medical Center files Chapter 11

By Russ Clementson, Trial Attorney

Brotman Medical Center operates a 420 bed general acute care hospital in Culver City, California and filed a Chapter 11 petition on October 25, 2007. The hospital has served the community since 1924.

The U.S. Trustee met with representatives of the hospital and their attorneys, toured the facility and listened to a presentation regarding the hospital's patient care performance improvement plan. The U.S. Trustee actively participated in the first day motions by negotiating a number of terms in the financing and cash collateral stipulation that protected the interests of the general unsecured creditors prior to formation of a committee. The U.S. Trustee argued in favor of preserving the rights of the unsecured creditors to object to the terms of the financing and cash collateral stipulation at a final hearing. The Court approved an interim order that addressed most of the U.S. Trustee's concerns.

The U.S. Trustee held an organizational meeting on November 6, 2007 and formed an Official Committee Of Unsecured Creditors. The Committee is active and has retained counsel. The Debtor moved to excuse the appointment of an ombudsman and both the U.S. Trustee and the Committee opposed the motion. The Court denied the Debtor's motion and ordered the U.S. Trustee to appoint an ombudsman following oral argument at a hearing on November 28, 2007. The U.S. Trustee successfully negotiated the language of the appointment order with both the Debtor and the Committee. The stipulated order preserves all of the statutory requirements of §333, including the duty of the

ombudsman to report her findings. The U.S. Trustee has identified an ombudsman after soliciting and evaluating proposals from a number of qualified persons and will be appointing her upon receipt of a statement of disinterestedness.

Criminal Enforcement News

The following is a press release issued by the United States Attorney's Office for the Central District on November 27, 2007

VENICE CIVIL RIGHTS ATTORNEY STEPHEN YAGMAN SENTENCED TO THREE YEARS IN FEDERAL PRISON FOR ATTEMPTED TAX EVASION, CONCEALING ASSETS FROM U.S. BANKRUPTCY COURT

Venice civil rights attorney Stephen G. Yagman was sentenced late today to 36 months in federal prison for his conviction earlier this year on charges of attempting to evade the payment of more than \$100,000 in federal income taxes and committing bankruptcy fraud. At the conclusion of a three-day hearing, Yagman was sentenced by United States District Judge Stephen V. Wilson, who ordered the defendant to begin serving his sentence on January 15. Judge Wilson said he imposed a "serious sentence" after being "shocked" by Yagman's testimony in court, which was "so transparently untrue in so many areas."

A federal jury convicted Yagman in June, finding him guilty of 19 felony counts – one count of attempting to evade the payment of taxes, one count of bankruptcy fraud and 17 counts of money laundering (engaging in monetary transactions in criminally-derived property). On a defense motion following the trial, Judge Wilson later acquitted Yagman on six of the money laundering counts. "In this case, in my view, justice was done," Judge Wilson said today. "The jury was right."

(Continued on next page)

The evidence presented during a four-week trial showed that Yagman filed federal income tax returns for the tax years 1994 through 1997, but paid only a small portion of the taxes that, according to his own returns, were owed to the Internal Revenue Service. As a result of the underpayment, Yagman accumulated federal income tax liabilities for those four years that, with interest and penalties, totaled more than \$158,000. During the four years, Yagman also failed to pay significant amounts of federal payroll taxes owed by his law firm, which was then called Yagman & Yagman, P.C.

Instead of paying these overdue federal taxes, Yagman engaged in a scheme to conceal his assets and to impede the collection efforts of the IRS. As part of the scheme, Yagman deposited hundreds of thousands of dollars into various bank and brokerage accounts in his girlfriend's name to disguise his personal assets. Yagman used the accounts to pay for personal purchases and to conduct the majority of his personal financial transactions.

In 1999, Yagman attempted to subvert the IRS's collection efforts by filing for both personal and corporate bankruptcy. Yagman made numerous misrepresentations and omissions in his bankruptcy petitions and in court proceedings relating to those petitions. In his personal bankruptcy petition, for example, Yagman failed to disclose to the Bankruptcy Court that he lived in a 2,800-square-foot house near the beach in Venice, for which he made mortgage and property tax payments, as well as claiming the homeowner's mortgage-interest deduction on his tax returns. Yagman also failed to disclose in his bankruptcy proceedings various personal bank and brokerage accounts that he controlled, but were in his girlfriend's name, as well as hundreds of

thousands of dollars in legal settlements, client payments and attorney's fees that he received in 1999 and 2000.

"As an attorney, Mr. Yagman had a duty to play by the rules. He failed to live up to this responsibility, and now he is a convicted felon," said United States Attorney Thomas P. O'Brien. "Mr. Yagman attempted to compromise the integrity of our tax system and the bankruptcy courts, and for this he will spend the next several years of his life behind bars."

In sentencing papers, prosecutors said that Yagman's "crimes were the result of a prolonged, sophisticated and calculated scheme to defraud." In those papers, the government asked Judge Wilson to impose a nine-year prison term.

"Justice has been served for the citizens of the United States," said Postal Inspector in Charge B. Bernard Ferguson. "We are all victims when the tax laws are violated. The Postal Inspection Service remains committed to partnering with the IRS to protect the public from those taking advantage of the system."

Internal Revenue Service Special Agent in Charge Debra King stated: "Mr. Yagman's sentencing sends a clear message to the public that those who disregard their privilege to practice law and use deceitful and dishonest means for their own financial benefit will be fully prosecuted. The public can be confident that IRS Criminal Investigation is committed to investigating individuals, including law practitioners, who willfully evade their income taxes." This case is the product of an investigation by IRS-Criminal Investigation, the United States Postal Inspection Service and the Federal Bureau of Investigation. Substantial assistance was also provided by

the U.S. Trustee's Woodland Hills office and the Regional Criminal Enforcement Coordinator.

The following is a press release issued by the United States Attorney's Office for the Central District on October 30, 2007

**ORANGE COUNTY SHERIFF NAMED IN
FEDERAL INDICTMENT
THAT ALLEGES LONG-RUNNING
CORRUPTION SCHEME
INVOLVING FAVORS TO FRIENDS WHO
PAID BRIBES – MISTRESS CHARGED WITH
BANKRUPTCY FRAUD**

SANTA ANA, Calif. – Michael S. Carona, the elected sheriff-coroner of Orange County, has been named in a wide-ranging corruption indictment unsealed today that accuses him and several close associates of scheming to exploit Carona's position for personal benefit, including accepting cash and appointing to the position of assistant sheriff an unqualified businessman who paid bribes.

The 10-count indictment charges Carona; is wife, Deborah Carona, who was appointed to the Orange County Fair Board of Directors while he was sheriff; and attorney Debra Victoria Hoffman, who as part of the scheme was appointed to the State Advisory Group on Juvenile Justice Delinquency Prevention and the California Council on Criminal Justice, which Sheriff Carona chaired. All three, who, among other things, are accused of concealing the illegal benefits they received, are expected to surrender to federal authorities at the United States Courthouse in Santa Ana tomorrow morning.

In addition to the indictment, prosecutors today unsealed charges previously filed against two Carona associates, businessman Donald Haidl and attorney George H. Jaramillo, who as part of the scheme were

made assistant sheriffs. In addition to criminal information, prosecutors unsealed the plea agreements under which Jaramillo and Haidl previously pleaded guilty. Jaramillo pleaded guilty to honest services mail fraud and tax fraud, and Haidl pleaded guilty to a tax offense.

The indictment alleges a conspiracy in which the five defendants schemed to get Carona elected and to corruptly use the office of sheriff to enrich themselves. In addition to the conspiracy, the indictment charges Carona with witness tampering, including his attempt to convince Haidl, as recently as August, to lie to a federal grand jury.

According to the indictment, Haidl illicitly paid cash – specifically, regular monthly payments of \$1,000 in cash – and other benefits to Carona, his campaign and his friends in exchange for full access to the resources of the Orange County Sheriff's Department and a "Get Out of Jail Free" card. Carona also allegedly provided benefits to Haidl's friends and family, including Haidl's son, who was arrested twice during Carona's tenure.

The indictment outlines a conspiracy that began in 1998, when Haidl allegedly made several \$1,000 "conduit contributions" to Carona's campaign. The illegal contributions were made with checks that were written by people who were reimbursed by Haidl, which concealed the true source of the contributions. Soon after the June 1998 election in which Carona was elected Sheriff, Haidl allegedly financed a Lake Tahoe vacation for Carona, Jaramillo and their spouses. And for years following his election, according to the indictment, Haidl made regular payments of approximately \$1,000 per month in cash to Carona and Jaramillo. In total the

conspirators, including Carona, accepted cash, gifts, loans and other compensation that totaled more than \$350,000.

In January 1999, Carona appointed Haidl to the position of assistant sheriff for reserves. Around the same time, Carona caused family members, friends and business associates of Haidl to be made reserve deputies. Around this time, Haidl caused Carona and Jaramillo to be appointed to a newly created “board of directors” at a company owned by Haidl’s uncle. Carona and Jaramillo received \$1,000 monthly checks from the company, even though they did not provide any services to the company.

During Carona’s tenure, the relationship between the sheriff and Haidl allegedly continued with a series of other illegal acts, including a transaction in which Haidl gave a boat to Carona in 2001, Carona provided preferential treatment for Haidl’s son, and Carona and his associates used Haidl’s yacht and private plane.

Haidl also allegedly gave Hoffman and Jaramillo a \$110,000 cashier’s check the day before Carona was elected sheriff in 1998, money that was used to revive Jaramillo, Hoffman and Associates, a law firm that Jaramillo and Hoffman had founded. A portion of this loan was repaid through an agreement in which Carona and Jaramillo, among others, would refer legal cases – including those involving Sheriff’s Department employees – to another lawyer, who would kick back legal fees to members of the conspiracy. In 1999 and 2000, Haidl also allegedly gave additional checks worth approximately \$65,000 to Hoffman at Carona’s request.

The indictment goes on to allege that Carona and Jaramillo entered into an agreement with the owners of a paintball

business in which the businessmen would pay tens of thousands of dollars in cash in exchange for Carona using his influence to help the businessmen obtain land in Orange County for a recreation facility.

Carona, Hoffman and Deborah Carona, covered-up and concealed the cash payments, loans, gifts and other benefits from Haidl and others through false statements under penalty of perjury in their Statements of Economic Interests and other public documents, allegations that are part of the conspiracy charges against each of them and the honest services mail fraud charges against Carona and Hoffman.

Carona is also accused of witness tampering, which includes encouraging Haidl to give false testimony to a federal grand jury investigating the sheriff. The indictment alleges that as recently as August 13 Carona, in a recorded conversation, encouraged Haidl to withhold evidence and to make false statements to the grand jury.

Hoffman is accused of bankruptcy fraud for failing to disclose various economic interests, including the loan and payments from Haidl, among other omissions.

An indictment contains allegations that a defendant has committed a crime. Every defendant is presumed innocent until and unless proven guilty in court.

In proceedings on March 6, 2007 that were unsealed today, Haidl pleaded guilty to filing a fraudulent federal income tax return for 2002 after using hundreds of thousands of dollars from partnerships, trust accounts and businesses he controlled to pay some of his son’s legal fees and failing to report this money as income, which caused a tax loss of between \$200,000 and \$400,000. In his plea agreement, Haidl admitted making illegal payments to Carona and Jaramillo. He is scheduled to be sentenced by United

States District Judge Andrew J. Guilford on June 23, 2008, at which time he faces a maximum statutory sentence of three years in federal prison.

Jaramillo pleaded guilty on March 13, 2007, to filing a false tax return for 1999 and to honest services mail fraud for filing a false financial statement required because he too was a member of the State Advisory Group on Juvenile Justice Delinquency Prevention. In his plea agreement, Jaramillo admitted that Haidl made cash payments to Jaramillo from 1998 through 2002, Haidl paid off Jaramillo's lease on a Mercedes-Benz, and Jaramillo filed a series of Statements of Economic Interest that failed to report, among other things, money, gifts, and loans he received from Haidl. Jaramillo is also scheduled to be sentenced by Judge Guilford on June 23, 2008, at which time he faces a statutory maximum sentence of 23 years in federal prison.

"This investigation did not focus on career personnel with the Orange County Sheriff's Department, but centered on elected and appointed individuals who allegedly abused their power and violated the public's trust," said Acting Assistant Director in Charge of the FBI in Los Angeles, Peter Brust. "The charges alleged in the indictment never called into question the integrity of rank-and-file Orange County Sheriffs Department personnel. FBI Agents and Orange County Sheriff's deputies work hand in hand every day combating crime on many fronts. The FBI is committed to continuing these strong relationships that exist in the form of joint task forces devoted to fighting terrorism, organized criminal enterprises, the exploitation of children, bank robberies and other criminal activity in Orange County."

Debra D. King, Special Agent in Charge of

IRS – Criminal Investigation in Los Angeles, stated: "Nobody is above the law, including public officials. Crimes committed by these figures violate the public trust. The indictment of Michael Carona on conspiracy, witness tampering, and public corruption-related charges serves to assure the public that their officials are, and will be, held accountable for their actions. Further, the indictment announced today helps to assure the public that their officials cannot use their office for their own financial enrichment or personal political gain."

Peter C. Anderson, United States Trustee for the Central District of California (Region 16), stated: "By working together with the United States Attorney's Office and the federal law enforcement agencies, the U.S. Trustee Program is able to fulfill its mission of protecting and preserving the integrity of the bankruptcy system."

The cases against Carona and the other defendants are the result of an investigation by the Federal Bureau of Investigation and IRS-Criminal Investigation, which received substantial assistance from the U.S. Trustee Program, which is the component of the Justice Department that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws.

Debtors Charged with False Statements in Bankruptcy, Other Crimes

A first superseding indictment was recently filed against Steven Jyegeo Shia and Jennifer Ning, charging Ning with three counts of making false statements in a bankruptcy case for failing to disclose a Merrill Lynch account, the transfer of approximately \$126,000 from that account to another Merrill Lynch account, and her

position as director, manager, and owner of a flower shop. Shia and Ning entered into a line of credit agreement with State Street Bank International. They allegedly submitted nearly \$58.6 million in fraudulent loan requests to the bank, resulting in losses of approximately \$8.9 million to the bank. The bank sued Shia, Ning, and their jointly owned company, Full Shine Enterprises. Shia, Ning, and Full Shine Enterprises each filed for bankruptcy. Shia and Ning were also charged with conspiracy, bank fraud, making false statements to a financial institution, and money laundering. The Regional Criminal Enforcement Coordinator assisted the U.S. Attorney and the FBI during the investigation.

Four-Time Filer Pleads Guilty to False Statements

Anita D. Witherspoon pled guilty on August 27 in the Central District of California to making false statements in four bankruptcy cases. Between 2002 and 2004, Witherspoon filed two bankruptcy cases in her name, one in her father's name using the father's Social Security number, and one in her mother's name using the mother's Social Security number. She filed the cases in her parents' names without their consent. In the two filings in her own name, Witherspoon made false statements regarding her income and her prior bankruptcy filings. In one case, she also failed to disclose her ownership of a new automobile. Witherspoon also stole \$58,200 in federal dependency and indemnity compensation benefit payments intended for another beneficiary, by diverting the payments to her post office box, endorsing them in the beneficiary's name, and cashing them at a check cashing business. The U.S. Trustee's Los Angeles office and the Regional Criminal Fraud Coordinator provided substantial assistance with the case.

Debtor Pleads Guilty to False Oath in Bankruptcy

On September 24 in the Central District of California, Mark A. Pizzuto pled guilty to one count of making a false oath or account in a bankruptcy proceeding. When Pizzuto filed chapter 7 bankruptcy in October 2001, he failed to disclose his 100 percent ownership interest in Shadowland Investments and his ownership of four Nevada residential properties. After Pizzuto received a discharge of more than \$2.9 million in unsecured debt, the trustee received information that Pizzuto had concealed assets. The trustee moved to reopen the case. During a section 341 meeting in the reopened case, Pizzuto falsely denied he had any interest in Shadowland Investments. The U.S. Trustee's Los Angeles Office assisted in the investigation.

Civil News: Selected Successes of the Office of U.S. Trustee

Conversion Prevents Discharge of \$108,786 in Primarily Gambling Debt

Ruling for the U.S. Trustee's Los Angeles office, the Bankruptcy Court for the Central District of California dismissed for abuse the case of a debtor, preventing the chapter 7 discharge of \$108,786 in unsecured debt, including more than \$92,000 in gambling debt. The debtors' income was above the applicable state median income, but their means test calculations showed negative monthly disposable income. The U.S. Trustee argued that, after the exclusion of vehicle ownership expenses for vehicles owned free and clear of liens, as well as other questionable expenses, the debtors had sufficient monthly disposable income to repay almost half their unsecured debt over 60 months in chapter 13.

Debtor Can't Discharge \$750,000 in Gambling Losses

On June 14, the Bankruptcy Court for the Central District of California approved a stipulation to revoke the discharge of this debtor, preventing the chapter 7 discharge of \$750,000 in gambling losses. The U.S. Trustee's Santa Ana office alleged the debtor under-reported the unsecured debt he owed to various casinos.

Court Rejects \$750,000 Salary for Part-Time CEO of Liquidating Debtor

On June 13, the Bankruptcy Court for the Central District of California sustained an objection by the U.S. Trustee's Woodland Hills office to a chapter 11 debtor's proposed compensation for its chief executive officer. The Company fired most of its employees and ceased operations, but it initially proposed a \$750,000 salary for its CEO. After the U.S. Trustee objected, they reduced the proposed compensation to \$300,000, but planned to allow the CEO to devote only as much time to the Company as he deemed necessary. The U.S. Trustee objected pursuant to 11 U.S.C. § 503(c)(3), created by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, which prohibits bankruptcy estates from making payments to officers and consultants that are outside the ordinary course of the debtor's business and not justified by the facts and circumstances. The U.S. Trustee argued the proposed compensation was not justified for a part-time CEO of a liquidating company. The court allowed a \$150,000 salary and required the CEO to show he devoted at least half-time to the Company. It also sustained the U.S. Trustee's objection to the debtor's application to employ a consulting firm to justify the CEO's proposed compensation, finding that the consultants did not benefit the bankruptcy estate.

Debtor Doesn't Disclose Escrow Account with \$120,000 but Eventually Stipulates to Revocation of Chapter 7 Discharge of \$520,328 in Unsecured Debt

The Bankruptcy Court for the Central District of California on July 11 approved a stipulation between a debtor and the U.S. Trustee's Santa Ana office, revoking the debtor's discharge of \$520,328 in unsecured debt. The U.S. Trustee alleged the debtor failed to disclose an escrow account when he filed bankruptcy, received more than \$120,000 from the account two weeks after filing, and failed to disclose the receipt of funds at his section 341 meeting.

Debtor Didn't Say that She was Renting so Case is Dismissed Preventing Chapter 7 Discharge of \$147,339 in Unsecured Debt

The Bankruptcy Court for the Central District of California on July 10 dismissed the case of this debtor, preventing the discharge of \$147,339 in unsecured debt. The debtor's mortgage payment was no longer an actual expense because she did not oppose a secured creditor's motion for relief from stay, allowing the creditor to commence foreclosure proceedings on her residence. The U.S. Trustee's Santa Ana office argued that, in her means test calculation, she should use the IRS Standards rental allowance instead of her mortgage payment amount. Substituting the rental allowance in the calculation showed the debtor could make a significant payment to unsecured creditors in chapter 13.

No Property Scheduled on A and B, and a Failure to Appear Results in Denial of Chapter 7 Discharge of \$342,762 in Unsecured Debt

Granting a default judgment for the U.S. Trustee's Santa Ana office, on July 16, the Bankruptcy Court for the Central District of

California denied the chapter 7 discharge of \$342,762 in unsecured debt by these joint debtors. The vast majority of their unsecured debt was incurred through the use of credit cards, yet the debtors had nothing to show for it on their schedules. In addition, the debtors failed to disclose certain real property, which the U.S. Trustee discovered through a public data base search. After the debtors failed to attend consecutive section 341 meetings, the U.S. Trustee obtained a court order for an examination and the production of documents. The debtors failed to appear for the examination and produce the requested documents.

***Dismissal Prevents Discharge of \$210,583
by Debtors with 40 Credit Cards***

Granting a motion by the U.S. Trustee's Los Angeles office, the Bankruptcy Court for the Central District of California dismissed the case of joint debtors for abuse, preventing the chapter 7 discharge of \$210,583 in unsecured debt, including a deficiency on a foreclosure judgment. The debtors earned no more than \$1,600 per month. Nonetheless, they had charged \$81,000 on 40 different credit cards, 25 of which they opened in the past two years. The debtors had no ability to pay when they incurred their credit card debts, nor did they have the foreseeable ability to pay in the future.

***Debtor Can't Discharge \$157,000 in
Gambling Losses in Chapter 7***

The debtor agreed on September 5 to convert his case to chapter 13 in response to a motion to dismiss for bad faith filed by the U.S. Trustee's Santa Ana office. The conversion prevented the chapter 7 discharge of more than \$157,000 in unsecured debt arising from gambling losses. The debtor also agreed to waive his

right to seek to reconvert to chapter 7 in the future. His bankruptcy documents disclosed gambling losses of over \$145,000 in 2006 and over \$180,000 in 2005. He admitted at his section 341 meeting that he incurred all his unsecured debt within the past two years in connection with gambling, and that he continues to gamble.

***Revocation Prevents Chapter 7 Discharge
of \$290,237 in Unsecured Debt***

On September 6, the Bankruptcy Court for the Central District of California approved a stipulated revocation of discharge by a debtor, preventing the chapter 7 discharge of \$290,237 in unsecured debt. The debtor entered into the stipulation in response to a complaint filed by the U.S. Trustee's Woodland Hills' office, which alleged that after filing bankruptcy the debtor transferred real property to a third party, received funds for the transfer, and failed to disclose the transaction to the case trustee.

***Dismissal for Bad Faith Prevents
Discharge of \$242,500 in Unsecured Debt***

On October 3, the Bankruptcy Court for the Central District of California dismissed the case of a debtor as a bad faith filing, preventing the chapter 7 discharge of \$242,500 in unsecured debt. The U.S. Trustee's Woodland Hills office showed that the debtor failed to disclose three properties, three fully paid automobiles, and three bank accounts, and overstated her tax and Social Security payments by approximately \$2,000 per month. The debtor and her husband filed serial bankruptcy cases to stop foreclosure proceedings on all three properties, including one property on which they never made payments.

Petition Preparer Enjoined for Failure to Pay \$27,000 Fine, Other Sanctions

Ruling for the U.S. Trustee's Los Angeles office, on October 17, the Bankruptcy Court for the Central District of California enjoined a bankruptcy petition preparer and her company under 11 U.S.C. § 110(j)(3) for failure to comply with a prior court order. The court previously fined the preparers \$27,000 and ordered them to pay the debtor \$1,071 in refunded fees and \$2,000 in damages, based on a finding that they engaged in fraudulent, unfair, and deceptive conduct. The debtor had paid the BPP \$1,345 for bankruptcy preparation services, including the filing fee. The BPP failed to identify herself as the preparer or place her identifying number on the bankruptcy documents, file a declaration disclosing her fees, and give the debtor a copy of the documents before filing them. She also signed numerous documents on behalf of the debtor, used the term "legal" in advertisements, and collected court filing fees. The injunction was entered because she did not pay the fine, fees, and damages.

Chapter 11 Debtor's Counsel Sanctioned for Breaching Fiduciary Duty

On October 29, the Bankruptcy Court for the Central District of California ordered an attorney to disgorge \$51,039 in fees received from the principal of a chapter 11 debtor (Debtor 1), based on a motion filed by the U.S. Trustee's Los Angeles office. The attorney served as counsel for the debtor and for another related chapter 11 debtor (Debtor 2). During the second case, the attorney assisted that company's principal in a scheme to transfer Debtor 1's assets to the newly formed company, Debtor 2. To further this scheme, the attorney—acting on behalf of debtor's principal rather than his client, Debtor 2

placed the Debtor 1 in bankruptcy to frustrate the Debtor 2's creditors. The court found that the attorney breached his fiduciary obligations and duty of loyalty as counsel to Debtor 2, engaged in actions inconsistent with those of an officer of the court, and assisted in an act of embezzlement. The court also found that the Debtor 1's chapter 11 filing was abusive and was made solely to frustrate Debtor 2's creditors. The attorney never filed an application seeking court approval of his employment by Debtor 1, and he received \$44,039 of the fee amount post-petition. A portion of the disgorged fees will be paid to the Program as quarterly fees in the Debtor 1 case.

Dismissal Prevents Attorney's Discharge of \$397,784 in Unsecured Debt

On October 31, the Bankruptcy Court for the Central District of California dismissed the case of an attorney for abuse under 11 U.S.C. § 707(b)(2), preventing the chapter 7 discharge of \$397,784 in unsecured debt. An associate at a major national law firm, the attorney earned more than \$185,000 per year and had over \$1,900 in monthly disposable income with which to repay a significant portion of his unsecured debt. The court held that the U.S. Trustee's Los Angeles office also showed that the totality of the circumstances demonstrated abuse under section 707(b)(3)(B) because his salary for a one-person household clearly permitted repayment of a sufficient amount of unsecured debt. The debtor argued that his \$190,799 unsecured student loan debt constituted a "special circumstance" countering the presumption of abuse. Pre-petition, however, the debtor obtained a one-year forbearance, so the student loan debt was erroneously listed on his schedules. In addition, in the months before filing, the debtor obtained a \$1,000-per-month salary

increase, traded in one new vehicle for another, and purchased a new vehicle for his girlfriend.

Judge Dismisses Involuntary Case Filed by Fictitious Creditor as Abusive Filing and Awards Punitive Damages of \$137,529.81

A fictitious creditor filed an involuntary petition against a corporation. This was one of many involuntary petitions he signed as the petitioning creditor, primarily used to stop foreclosure sales or evictions. The U.S. Trustee's Los Angeles Office filed an application for an order to show cause why the case should not be dismissed as an abusive filing and for the petitioning creditor to prove he was actually a creditor of the alleged debtor. He was ordered to appear before the Court. Two parties affected by the filing were also present. The Court found that the petitioning creditor did not have a claim against the alleged debtor, that he filed the petition in bad faith, and violated another court order in filing the case without first obtaining permission of the court. The Court dismissed the case as abusive, annulled the stay retroactive to the date of filing. The also found that compensatory and punitive damages (treble damages) were appropriate and ordered the fictitious creditor to pay the effected parties compensatory damages in the amount of \$45,843.27 and the Court punitive damages in the amount of \$137,529.81.



New OUST Staff

Kate Bunker



The Woodland Hills office is very pleased to welcome attorney Kate Bunker as the newest member of its staff. After graduating cum laude from the University of Southern California, Kate earned her J.D. at Loyola Law School. As a law student Kate was an extern for the Honorable John Ryan. After completing law school she clerked for the Honorable Erithe Smith, for one year with the Bankruptcy Court and for one year with the Ninth Circuit BAP. Kate now has joined the Office of the U.S. Trustee through the Department of Justice's Honors Program. She likes to travel and sail, and doesn't miss a USC football game. The Woodland Hills office congratulates Kate on her marriage this year, as well as on her joining the Program.

Jimi Na



The USTP is glad to welcome an addition to their Information Technology (IT) staff; Mr. Jimi Na. Jimi received his Bachelor of Science in Network and Communication Management in 2004, from DeVry University using his Army College Fund. He also holds certificates as a Cisco Certified Network Professional and a Cisco Certified Design Professional. From college, Jimi returned to work for the

Army, this time as a civilian employee. Jimi was a Systems administrator at the United States Military Entrance Processing Command, and was named their employee of the year in 2006. Jimi is an avid snow boarder, and heads for the mountains whenever he can get free.

Bonita DeGrave



The Riverside office would like to welcome their newest Legal Clerk, Bonita DeGrave. Prior to joining the Program in April, Bonita was employed as an Intake Clerk, Court Services Clerk and Team Leader with the Riverside Division of the Bankruptcy Court, from August 1992 until April 2004. She spent three years in semi-retirement traveling, gardening and readying a rental home for sale. Bonita highly recommends retirement when you're ready for it! Prior to her employment with the Bankruptcy Court, Bonita worked in several law offices as a legal assistant and has a Paralegal Certificate from the University of California at Riverside. She and her husband of 32 years, Steve, are the proud parents of daughter Sara, who teaches third grade in Newport Beach, and son Sean, who is a Fireman/Paramedic with the City of Murrieta. Sean and his wife Liselle, presented Bonita and Steve with their first grandchild, Ava Marie, on July 16th of this year.



Patti Ann Brundige



The Los Angeles Office welcomed a new Paralegal Specialist to its ranks in June 2007. Patti Ann Brundige comes to the OUST from the law firm of Haight, Brown & Bonesteel, where she had worked for 17 years. Ms. Brundige is an extremely experienced paralegal, having graduated from Cal State Los Angeles's paralegal studies program in 1978. She taught Probate and Estate Planning Courses at Cal State LA in the paralegal studies program in the early 1980s, and taught federal estate taxation courses at the USC Law School in federal taxation during the mid 1980s while working for a sole practitioner.

Ms. Brundige has an active life outside the OUST. Named Volunteer of the Year in 2003 by Public Counsel, she continues to contribute her time to volunteer organizations, such as the Girl Scouts of America and Bal Jagat (an international adoption agency). Not satisfied with all of her previous academic achievements, Ms. Brundige is presently attending night courses to complete her accounting degree. Most important, Ms. Brundige is the extremely proud mother of two beautiful girls, aged 14 and 5.

In the short time she has worked at the OUST in Los Angeles, Ms. Brundige has made herself indispensable. She works on chapter 11 and civil enforcement matters, and is the staff member assisting the AUST Jill Sturtevant on the Creditor Abuse Project. She encourages all members of the Bench and Bar to correspond with her if they have

any information about potential creditor abuse. Her email address is Patti.A.Brundige@usdoj.gov; she promises to respond quickly to any inquiries.

Suneeta Sahgal



Paralegal Specialist, Suneeta Sahgal, started with the UST-Los Angeles office in November 2004. She previously worked in the private sector as a litigation paralegal. Suneeta just recently returned to the OUST

having completed a special assignment in Iraq where she assisted the DOJ in its prosecution of Saddam Hussein and the Revolutionary Command Council members. While on tour of duty, she also worked on the Anfal trial, which focused on the mass genocide of the Kurdish population in Iraq. Suneeta was the lead paralegal on this case and was involved with selecting and managing witnesses, and reviewing and selecting important documents introduced into trial. Suneeta, frequently met with the Iraqi prosecutors and judges.

In recognition of her superlative work on the Anfal trial, Suneeta was asked to extend her stay in Iraq, in order to move into a new arena for the DOJ, the Rule of Law. Suneeta was selected as the Acting Director of the Anti-Corruption Group, managing a group of ten skilled professionals. She handled many issues within the Ambassador's Executive Group including verification of reports leaked to Congress, inquiries from various Congressional leaders requesting testimony on these matters, and the sudden asylum request from the Chief Iraqi Commissioner appointed to head the largest anti-corruption agency in Iraq.

In addition to her extensive experience, Suneeta has a Master's Degree from U.C.L.A. School of Public Health. Suneeta is now busy in the LA office with civil enforcement duties and Chapter 11 matters.

